

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**AMBER WILSON and GEOFF MINTER,  
as Special Administrators of the Estate  
of John Doe, a minor, and AMBER WILSON,  
individually, and GEOFF MINTER, individually,**

**Plaintiffs,**

**v.**

**DEEP CORPORATION, INC., d/b/a  
HOWARD JOHNSON EXPRESS INN  
OF COLLINSVILLE, ILLINOIS and  
HOWARD JOHNSON EXPRESS INN,**

**Defendants.**

**No. 05-CV-0428-DRH**

**ORDER**

**HERNDON, District Judge:**

Pending before the Court is Defendant Howard Johnson Express Inn's June 17, 2005 motion to dismiss Counts IV, V and VI (Doc. 6). Specifically, Howard Johnson argues that Counts IV, V and VI should be dismissed because the Court does not have personal jurisdiction over it because it is not a separate legal entity and it is not a proper party capable of being sued. As of this date, Plaintiffs have not responded to the motion to dismiss. Pursuant to **LOCAL RULE 7.1(c)**, the Court

considers this failure to respond an admission of the merits of the motion.<sup>1</sup> Thus, the Court **GRANTS** the motion to dismiss Counts IV, V and VI (Doc. 6). The Court **DISMISSES with prejudice** Counts IV, V and VI.

**IT IS SO ORDERED.**

Signed this 8th day of August, 2005.

/s/ David RHerndon  
**United States District Judge**

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<sup>1</sup>“An adverse party shall have **thirty (30) days** after the service (see FED. R. CIV. P. 6) of the movant’s motion in which to serve and file an answering brief. Failure to timely file an answering brief to a motion may, in the court’s discretion, be considered an admission the merits of the motion.” **LOCAL RULE 7.1(c)**.